1   program or application software or files and data or

2   document files in computer applications?

3   A   Yes. I'll put it in simple form. If you're

4   familiar with the program called WordPerfect, it is made by

5   a manufacturer to do certain functions and features. You

6   would then perform functions and tasks, such as typing up a

7   letter, and when you go to save it, that application then

8   allows you to save this data into a format that is

9   considered a data file. You are not really manipulating the

10   program. You are creating something from that program.

11   Q   So when it creates the data files, the data files

12   are then something separate from the actual program files

13   themselves?

14   A   Yes, it is.

15   Q   Now, does FoxPro, which is not a word processing

16   program such as WordPerfect you just described. You said it

17   is a database engine, I believe. Does it create data files?

18   A   Yes.

19   Q   What format are they created in?

20   A   Typically DBF, database format.

21   Q   Okay. Now, is that true when I look at a computer

22   screen if I am listing the files and I recognize those files

23   because they typically have the extension .DBF?

24   A   Yes. You can safely assume that, yes.

25   Q   But these then would be the files containing the

1   data from the application that I am working in, correct?

2   A   Yes.

3   Q   Now, what kind of information is contained in a

4   typical DBF file?

5   A   That depends upon what the programmer has put in

6   it, but information such as let's say you're making a

7   database that has customer information and billing

8   information.   It can be labeled however you want it.   It can

9   be -- FoxPro allows you to customize your own package.

10   If Microsoft writes a package, they have their own

11   way of doing things.   FoxPro allows you to use this engine

12   to write your own package.

13   Q   Let me back up and get a few more background

14   things.

15   We heard testimony that someone was developing an

16   application in a database package.   My understanding is that

17   unlike with a word processing program, when you execute the

18   program and then generate your document with a database

19   package, one uses the database package or the engine, as you

20   say, to create an application running under that package,

21   which then creates the data files.   Is that correct?

22   MR. SCHAUBLE: Objection.

23   JUDGE CHACHKIN: Overruled.

24   BY MR. KELLER:

25   Q   Is that a correct understanding?   I know it is

1   probably too simplistic, but is that an accurate

2   explanation?

3   A   Yes, in simple form.

4   Q   Can you explain that a little bit? I mean, we do

5   not want to get too technical, but I want to make sure --

6   A   Right. I am trying to --

7   Q   -- we have an understanding of these three

8   separate and discrete functions.

9   A   Okay. We will take FoxPro. You can go to the

10   shelf and buy FoxPro as an application. What FoxPro will

11   allow you to do is write your own package.

12   I am a programmer that has learned this

13   simplistic, basic coding. Let's say it's Visual Basic.

14   That's the standard coding out there. You hire me, and you

15   tell me what you want.

16   I go in here, and because I have the knowledge of

17   how to use that program I type up some things, and I create

18   a data file from that. I have a core operating system which

19   I can create data results off of, which is a separate file.

20   Once you build this piece and the middle piece, it can then

21   be called a custom application.

22   MR. KNOWLES-KELLETT: I would caution the witness.

23   You cannot use your hands to point because --

24   THE WITNESS: Okay.

25   JUDGE CHACHKIN: Well, he is not pointing.

1   MR. KNOWLES-KELLETT: He said this piece and the

2   middle piece.

3   THE WITNESS: Okay.

4   MR. KNOWLES-KELLETT: I just want a clear record

5   here.

6   THE WITNESS: For the example, you have your

7   FoxPro, which would be your core application. You hire me.

8   I create data input based on your information, which then

9   becomes referred to as a custom application, and the results

10   are data files of that application.

11   BY MR. KELLER:

12   Q   So if I am understanding you correctly, to use a

13   hypothetical example, if I wanted to develop a billing

14   software package, a customer or client billing database for

15   my law practice, I could purchase the FoxPro database

16   product. I could hire you to develop a custom application

17   to do what I wanted. Once you had done that, then my office

18   staff could then use the application?

19   A   Yes. If configured properly, yes.

20   Q   And then when they used the application, they

21   would then be accessing, developing, creating and

22   manipulating data files, DBF files?

23   A   They would not be -- okay. DBF files? Yes. The

24   information as it is updated. There would be maybe one

25   master DBF file, but there can be other DBF files that link

1   to do certain things. There may be one report, so to speak,

2   that is a DBF file, say one, two, three, four and five, and

3   they all link to the program, the local program.

4   Yes, they could add onto it and manipulate those

5   data programs and everything. Not the system files, but --

6   Q   The --

7   JUDGE CHACHKIN: Are you finished?

8   THE WITNESS: Uh-huh.

9   MR. KELLER: I am sorry.

10   BY MR. KELLER:

11   Q   When you develop a custom application for a

12   typical user, is it not true that you develop it so that

13   there is an interface so that the typical user is insulated

14   from all of this technical stuff in the DBF files?

15   A   Yes.

16   Q   How is that accomplished? In a typical

17   application, what am I looking at when I look at the screen

18   if I am a user of a custom application?

19   A   Once they are familiar with the application that

20   has been developed, all they're looking at is pulling up a

21   file called maybe XYZ. They're not going to see something

22   called XYZ.DBF. That is one step down that is transparent

23   to them.

24   Maybe the database is called Accounting, and they

25   know that they have to click on this file called Accounting

1   to update it.

2   Q   In a database application, can you explain to me

3   the distinction of the meaning of records and fields?

4   A   Fields from a programming perspective or from a

5   general perspective?

6   Q   Just a general understanding in a database.

7   Forget the software. In a database, what is a record, and

8   what is a field?

9   A   A record would be -- to use it as an example, a

10   client name called Jones would be called a record. Within

11   that record is say a street address. That will be called a

12   field, so a field is actually a content from within a

13   record.

14   Q   So is it true that one of the purposes and uses of

15   the database application is to store various different

16   fields with respect to a particular record and then to store

17   various records under that same format?

18   A   Yes, that is correct.

19   Q   I understand the example of an address. In a

20   typical billing software, a customer list and billing

21   software, what are some typical fields that one might

22   encounter?

23   A   Address information, names, possibly amounts owed

24   or due, maybe social security numbers. Those would be

25   referred to as fields.

1   The record would be the actual -- typically in an

2   accounting package, the name would be a field, but it could

3   also be a record.

4   Q   Now, are you also familiar with a software program

5   known as PKZIP and PKUNZIP?

6   A   Yes. It's a share -- what they refer to as a

7   shareware utility that you can get out on the Internet, and

8   it's shared.

9   Q   First, very briefly explain what shareware means.

10   A   Shareware means you don't have to purchase the

11 program. It's available to the public.

12   If you want additional features of the program,

13 then you can go and get -- like for $10 you can get a fuller

14 blown version of it, but typically it is shared. There's no

15 copyright infringements by copying it and sending it all

16 over the place.

17   Q   Now, what does the shareware package or the

18 software package PKZIP/PKUNZIP, what does it do?

19   A   It takes a file or list of files and compresses

20 it. It's a utility that looks at the file integrity,

21 compresses it down to a smaller size so that it can fit onto

22 -- it doesn't take up as much disk space, whether you put it

23 on a floppy or you e-mail it to someone. The recipient can

24 then extract it to its full-blown usable form.

25   When it's in its zipped form, it is not usable per

1   se to execute a program; like if it is a program and it is

2   compressed, it's going to compress it down to a certain

3   percentage. You will not be able to run the program from

4   the ZIP file, which also creates a typical .ZIP extension, a

5   file extension.

6   Q   Now, in addition to compressing the file size

7   down, is it also true that the program is capable of and

8   typically used to collect a number of files and package them

9   up into one compressed file?

10   A   Yes.

11   MR. SCHAUBLE: Objection.

12   JUDGE CHACHKIN: What is it?

13   MR. SCHAUBLE: Your Honor, it --

14   JUDGE CHACHKIN: We are not dealing with a witness

15   who was involved in this controversy. We are dealing with

16   an expert witness. You will have an opportunity to

17   cross-examine this witness.

18   If there is an objection on the grounds of a

19   leading question, it is overruled.

20   MR. SCHAUBLE: Very well, Your Honor.

21   MR. KELLER: Your Honor, I would like to have

22   marked for identification a copy of the diskette. I guess I

23   will give the Bureau a copy of the diskette, and I guess I

24   will give you a copy.

25   This will be Kay Exhibit No. 10, and it will be

1   marked for identification as Kay Exhibit No. 10.

2   JUDGE CHACHKIN: The document will be so marked.

3   (The document referred to was

4   marked for identification as

5   Kay Exhibit No. 10.)

6   BY MR. KELLER:

7   Q   Mr. Johnson, you met with me earlier this morning,

8   correct?

9   A   Yes.

10   Q   And at that time I provided you with a diskette?

11   Is that correct?

12   A   Yes, you did.

13   Q   And I asked you to put the diskette in your

14   computer and examine the contents of the diskette?

15   A   Uh-huh.

16   Q   And you did that within something called a DOS

17   session or a DOS window, correct?

18   A   Yes, that is correct.

19   Q   First of all, would you explain to us what a DOS

20   session is?

21   A   Okay. When the computer industry first got

22   started -- DOS stands for disk operating system. It is a

23   platform that allows us to then load things on top of.

24   Through the years, now we're in an operating system called

25   Windows 95 or Windows 98.

1   From within the Windows 98 operating system, there

2 is a selection to go to a DOS prompt, which is, in its

3 simplest form it basically allows you to go to a typewriter

4 looking type of session and allows you to do simple

5 commands, like a DIR would show me the content of a diskette

6 or a hard drive.

7   Q   Now, I asked you to do this in a DOS session. Is

8 it not true that I explained to you that my belief was that

9 if you executed certain commands from within DOS, you would

10 be operating at the most basic level that is more likely to

11 be able to be duplicated by others, regardless of what

12 particular flavor of Windows they might be running?

13   A   That is correct.

14   Q   And was my assumption accurate?

15   A   Yes, it was.

16   Q   Okay. Now, did I ask you to make copies of that

17 diskette?

18   A   You asked me to make six copies, which I believe

19 you just distributed to us.

20   Q   And you made an exact copy of the documents I gave

21 you?

22   A   Yes, I did.

23   MR. KELLER: Your Honor, I will represent for the

24 record that the diskette that I gave Mr. Johnson to copy

25 contained a file named DAD.ZIP with a date stamp of 3-8-95

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1   and a reported file size of 341,148, which I believe to be

2   341,148.

3   BY MR. KELLER:

4   Q   What does that 341,148 mean?

5   A   That is a file size in bytes.

6   MR. KELLER: In bytes.

7   I am making this representation for the record

8   stating that it is my representation that this is an

9   unmodified copy of the file produced by Mr. Cordaro in his

10   December 10, 1997, deposition in this case, and that is a

11   matter that can be easily verified by the Bureau.

12   I am certainly willing at some point if they

13   choose to verify that and come to the conclusion that it is

14   not the same file or it has been modified in some way, we

15   can certainly deal with that.

16   MR. KNOWLES-KELLETT: Your Honor, our

17   understanding is the diskette produced by Mr. Cordaro

18   contained only the DAD.ZIP file.

19   MR. KELLER: And that is why I just made my

20   representation.

21   MR. KNOWLES-KELLETT: I just want the record to be

22   clear that the one entered into evidence had PKUNZIP.EXE

23   added to the diskette. He can ask the witness, but I think

24   we will stipulate that adding PKUNZIP to the thing does not

25   change that exhibit.

1   MR. KELLER: Let me ask the witness a series of

2   questions on that.

3   For the record, before I do that, I will state

4   there is not a dispute, but some lack of information as to

5   whether or not the copy of the diskette I have that was

6   produced by --

7   First of all, at the deposition Mr. Cordaro

8   brought two copies of the diskette, correct?

9   MR. KNOWLES-KELLETT: Correct.

10   MR. KELLER: He gave one to the Bureau and one to

11   counsel for Kay.

12   MR. KNOWLES-KELLETT: Yes.

13   MR. KELLER: The copy that finally arrived in my

14   hands has two files on it, DAD.ZIP and another file,

15   PKUNZIP.EXE.

16   There is some question as to whether that --

17   certainly the PKUNZIP.EXE appears not to be on the Bureau's

18   copy. There is some question as to whether it was on my

19   copy when Mr. Cordaro produced it or whether it was

20   something that was added by somebody. It is possible that

21   somebody added it so that the PKUNZIP utility could be used.

22   Now, with that background --

23   MR. KNOWLES-KELLETT: Let the record be clear.

24   Craig Sobel testified that Kay gave him the copy to analyze.

25   We adjourned Cordaro's deposition because we were not

1   capable of analyzing the diskette. I think that that is why

2   it was added.

3   MR. KELLER: Okay. Let me ask the witness this.

4   BY MR. KELLER:

5   Q   If I gave you a copy of a diskette that had only

6   this file DAD.ZIP.EXE on it --

7   MR. SCHAUBLE: Did you say DAD.EXE?

8   MR. KELLER: .ZIP.

9   MR. SCHAUBLE: You said DAD.ZIP.EXE.

10   MR. KELLER: All right. DAD.ZIP on it.

11   BY MR. KELLER:

12   Q   If you were to then copy onto the diskette another

13   file, PKUNZIP.EXE, would that process of copying PKUNZIP.EXE

14   onto the disk in any way alter or corrupt the file DAD.ZIP?

15   A   No.

16   MR. KELLER: Okay. So my representation is only

17   as to the file DAD.ZIP, Bates stamped 3-8-95, and with a

18   file size reported in DOS as 341,148 bytes, and my

19   representation is that that is an unmodified copy of the

20   file produced by Mr. Cordaro, subject to verification by the

21   Bureau, who now has exact copies, and this witness has

22   testified that all these disks that have been distributed

23   are copies that he made from the same file this morning.

24   MR. KNOWLES-KELLETT: Subject to check, Your

25   Honor, we will stipulate that the copy of the document

1   produced -- the file, but not the disk -- was produced by

2   Mr. Cordaro.

3   MR. KELLER: Correct.

4   JUDGE CHACHKIN: All right.

5   BY MR. KELLER:

6   Q   Now, the .EXE extension on a DOS file. What does

7   that indicate generally?

8   A   An executable file, which means it is a program

9   file that performs some function. It launches a program.

10   Q   So you could then use that file to launch a

11   program?

12   A   Yes.

13   Q   All right. With the particular copy of

14   PKUNZIP.EXE that was on this disk, did you have an

15   opportunity to attempt to execute that file this morning?

16   A   I did, and I viewed the contents of the ZIP file

17   as well.

18   Q   Right now my question is about the executable

19   itself. Does that appear to be a working and accurate copy

20   of --

21   A   Yes.

22   Q   -- PKUNZIP.EXE?

23   A   Yes, it is. As a matter of fact, to the best of

24   my knowledge, it's the most current version.

25   MR. KELLER: Your Honor, subject to verification

1   by the Bureau, I would ask that these diskettes be admitted

2   into evidence.

3   JUDGE CHACHKIN: Any objection?

4   MR. SCHAUBLE: No objection, Your Honor, subject

5   to check.

6   JUDGE CHACHKIN: Okay. Exhibit 10 is received.

7   (The document referred to,

8   having been previously marked

9   for identification as Kay

10   Exhibit No. 10, was received

11   in evidence.)

12   BY MR. KELLER:

13   Q   Mr. Johnson, have you placed a copy of Exhibit 10

14   into your computer?

15   A   Yes, I have.

16   Q   Could I ask you first to duplicate the DOS

17   session?

18   If the Bureau wants to go observe this now they

19   can, but I am going to be asking my questions in such a way

20   that I think the written record will accurately reflect what

21   we are doing.

22   MR. SCHAUBLE: Your Honor, may I approach?

23   JUDGE CHACHKIN: Yes.

24   THE WITNESS: Do you need to mark this?

25   JUDGE CHACHKIN: No, because the reporter has two

1   copies.

2   THE WITNESS: I'm at the A drive right now. I'm

3   just going to go to my C drive. This is the directory.

4   I've put it on a directory called DAD. If I do a directory

5   content, the ZIP file, DAD.ZIP, PKUNZIP.EXE, is there, as

6   well as the DBF files which I unarchived.

7   BY MR. KELLER:

8   Q   Okay. Can I ask you to start from scratch just so

9   we have a clear record?

10   A   Sure.

11   Q   Could I ask you to just delete all the contents of

12   that directory?

13   A   Sure.

14   Q   Just so the record is clear, you are right now

15   manipulating something on your hard disk. You are in no way

16   altering the floppy diskette, correct?

17   A   Not at all. At the C drive I am typing in DEL *.*

18   under the C:\DAD directory, and I am prompting "Yes" to

19   delete the files. I am doing a directory again. There are

20   no contents in there.

21   Q   Okay. So you are now in a clean, empty directory,

22   an empty sub-directory, under your hard drive, correct?

23   A   Yes, I am.

24   Q   That would be the equivalent to me now starting to

25   write on a clean sheet of paper?

1   A   Okay.

2   Q   I would now ask you to execute the commands you

3   would normally execute in a DOS session to examine the

4   contents of the diskette which has now been introduced as

5   Kay Exhibit 10.

6   A   Would you like me to do this from my hard drive or

7   from a floppy drive?

8   Q   I do not care where you do it from, but I --

9   A   Okay.

10   Q   -- want you to examine the actual floppy. Whether

11   you do it from the hard drive or --

12   A   Okay. I am not going to jeopardize the integrity

13   of the diskette, so I'm going to copy the files to this

14   empty directory.

15   Q   Okay. So first you are going to copy the files

16   from the diskette --

17   A   The diskette.

18   Q   -- to the clean directory?

19   A   Right.

20   Q   And the purpose of this process is just to make

21   sure that anything else I have you do you are only dealing

22   with copies so that the original diskette's integrity is

23   maintained?

24   A   That is correct.

25   Q   But the copying process would in no way alter the

1   contents or integrity of the files, right?

2   A   Not at all.

3   Q   Okay.

4   A   It's just making a mirror image.

5   The command will be COPY A:*.* C:. It says it has

6   copied two files. I will do a directory of the C:\DAD

7   subdirectory, and the files have been transferred.

8   Q   So the result of that operation is now you have a

9   copy, an exact copy, in your C:\DAD subdirectory of the

10   contents of Kay Exhibit 10, correct?

11   A   Yes.

12   Q   Okay. So you can now remove the diskette so that

13   there is no possibility of any corruption?

14   A   Yes.

15   Q   I would now ask you to do a directory listing on

16   that directory.

17   A   DIR, hit Enter.

18   Q   In examining the file DAD.ZIP, can you read me the

19   various information that the directory command reports?

20   A   The file size is 341,148. The date on that is

21   3-8-95. The time is 6:12 p.m., and the file verification is

22   DAD.ZIP.

23   Q   Okay.

24   A   The next file is PKUNZIP.EXE. The file size is

25   29,378. The date is 1-24-96 at 11:42 a.m., PKUNZIP.EXE.

1   MR. KELLER: Okay. I would just note for the

2   record something that I have just noticed. The date on the

3   PKUNZIP.EXE has a later date stamp than the data file, and I

4   believe the witness testified it is the most recent version,

5   so I suppose I agree with the Bureau's assessment that

6   PKUNZIP.EXE was not on the original disk at issue. We have

7   already addressed that anyway.

8   BY MR. KELLER:

9   Q   The date stamp on the DAD.ZIP.EXE file, you said

10   that is March 8, 1995?

11   A   Yes, it is.

12   Q   Based on your understanding of the PKZIP/PKUNZIP

13   utility, how is that date stamp generated?

14   A   When the complemented file called PKZIP is

15   executed to execute this file or group of files, that date

16   stamp is what's created from the time it is created.

17   Q   So if I executed the PKZIP utility to compress a

18   group of files into one compressed archive, you are telling

19   me that the utility would place a date stamp on the file, so

20   that would be an accurate indication of when that operation

21   was accomplished?

22   A   Yes.

23   Q   Now, subsequent copying of the file such as you

24   have just done, does that alter the date stamp?

25   A   Not at all.

1   Q   Is it not true that in order to alter that date

2   stamp in any way you would have to intentionally do it, and

3   it would also require special utility software to do so?

4   A   Yes.

5   Q   Now, when the PKZIP utility creates this

6   compressed archive -- well, first let me ask you another

7   question.

8   My understanding is the PKUNZIP.EXE file that is

9   on here, you recognize that as a utility which will allow

10   you to uncompress this archive, correct?

11   A   Yes.

12   Q   And my understanding is that is a process that

13   allows you to extract from this file, DAD.ZIP, the original

14   files that were compressed into it on March 8, 1995?

15   A   Yes.

16   Q   Would you exercise that command now and, as you

17   have been doing very well, explain for the record exactly

18   what you are doing as you do it?

19   A   Yes, I will. I will type in from the C:\DAD

20   directory PKUNZIP, space, the name of the file, which is

21   DAD.ZIP, space.

22   Now, there are parameters here which I can put in

23   which we call switches. What would you like me to do,

24   completely extract?

25   Q   I would like you to completely extract the file.

1   A   Okay. I will use a minus D parameter. What that

2   will do is if there were any directory structures created

3   when this was compressed, it will extract them the same way

4   it was compressed in this directory.

5   I hit Enter. It is inflating everything, and all

6   the files have been inflated.

7   Q   Now could I ask you, and just so the record is

8   clear, we are dealing with this working directory created on

9   your hard disk, not the original exhibit?

10   A   This is correct.

11   Q   Could I ask you now to delete the file DAD.ZIP?

12   A   Sure. I will type in DEL, space, DAD.ZIP.

13   Q   Could I also now have you delete the file

14   PKUNZIP.EXE?

15   A   DEL, space, PKUNZIP.EXE.

16   Q   Is it correct that those last two deletions I had

17   you do results now in the contents of this directory being

18   solely the original contents of the ZIP file?

19   A   Yes, if I do a directory. Would you like me to do

20   a directory?

21   Q   Do a directory listing on that. Is it true that

22   there are options and switches you can also use with the

23   directory listing?

24   A   Yes, there are.

25   Q   Could you do your directory listing in such a way,

1   if you know how to do this, so that the results are sorted

2   alphabetically by file name?

3   A   Yes.   I believe the switch is I'm going to do a

4   DIR, space, forward slash --

5   Q   I am doing that just so that your listing will

6   match what we have got here for follow along purposes.

7   A   Space, /AD, I believe.

8   MR. KELLER: If I might refresh the witness's

9   recollection?   It is /ON.

10   THE WITNESS: ON?   You're taking me back awhile.

11   MR. KELLER: Remember, we are dealing at the most

12   basic level of DOS here.   Nobody does this anymore.

13   THE WITNESS: Okay.   I've done that.

14   BY MR. KELLER:

15   Q   Could you first, just looking at the file names

16   only, read to me the list you have?

17   This follow along document that I have handed out

18   is not being introduced for the record, but for your

19   purposes you can follow along from Item 3 on the second page

20   of the handout I gave people.

21   A   The first file name is APVEND01.DBF.   The next

22   file is ARCUST01.DBF.   The next file is ARINVT --

23   Q   Okay.   Let me stop the witness.   I apologize.   I

24   thought I had done this --

25   A   Alphabetically?

1   Q   Just do a plain old directory listing. I am

2   trying to just for purposes of assisting people in following

3   along get a listing the same as we have here.

4   A   I am typing DIR, and I will hit ENTER.

5   Q   What is the first file now?

6   A   ARI.

7   Q   Okay. Now, you have now executed just a plain,

8   unmodified directory listing on the directory, correct?

9   A   That is correct.

10   Q   Read down the list of file names for me, please.

11   A   Okay. ARINVT01.DBF, APVEND01.DBF, ARCCUST01.DBF,

12   MR. KNOWLES-KELLETT: Were there two Cs or one C?

13   THE WITNESS: One C. ARCUST01.DBF. The next file

14   is CUST03.DBF, CUST01.DBF, FREQ01.DBF, CUST02.DBF,

15   FREQ03.DBF, CUST05.DBF, CUST04.DBF.

16   MR. KELLER: Okay.

17   BY MR. KELLER:

18   Q   Does the directory listing report a total

19   aggregate size of all those files?

20   A   Yes.

21   Q   And what is that?

22   A   Ten files at 2,897,202, which would be equivalent

23   to what is referred to 2.8 megabytes.

24   Q   Okay. I apologize. I do not think I asked you

25   this while we were down in the room.

1   Do you either know or have an opinion, looking at

2   that listing, as to if I did not compress these files, and

3   these are PKZIP. If I simply wanted to copy these files in

4   their unmodified form onto floppy disks, how many floppy

5   disks would be required?

6   A   If you're using the floppy disks that you

7   submitted, which have a total capacity of 1.44 megabytes,

8   you would maybe get on one -- you would need at least two

9   diskettes, possibly three.

10   Q   All right. Would it be possible for you to, and I

11   am not asking you to do this right at the moment, but is

12   there a process you could use to determine whether or not it

13   is possible to get these onto two diskettes?

14   A   I would use a compression utility. Automatically

15   I can see that -- just from knowing the industry, I know

16   that the first file, which is a megabyte in size, is going

17   to be tight. You can put it on one diskette, and just with

18   my experience I know that you're going to need at least two

19   or three.

20   Q   How would it be possible to determine? Again, the

21   question I am trying to decide is whether these will fit

22   on -- is it at all possible, without compressing the files,

23   for these files in their original format to fit on two

24   diskettes or whether it would actually require three. Is

25   that a difficult thing to determine?

1   A   No, it is not a difficult thing to determine.

2   Q   How would you go about determining that?

3   A   Well, I would probably have to manually take it

4   file by file and take a calculator and see what was -- I

5   would look at the file sizes of these files and determine

6   which ones I personally want to put onto a diskette or

7   series of diskettes, and then I would manually copy with a

8   simple DOS command, COPY, space, the name of the file,

9   space, the designated drive label.

10   Q   Okay. It is true that the capacity of this

11   floppy, when it has no files on it, is 1.4 megabytes?

12   A   Correct.

13   Q   And it is true that the capacity or the total size

14   of these aggregate files is 2.8, actually 2.9, megabytes?

15   A   Yes.

16   Q   So that would nominally be more than the capacity

17   of two floppy diskettes, correct?

18   A   Yes.

19   Q   Let me leave that line of questioning for the

20   moment then.

21   Mr. Johnson, are you still looking at the

22   directory listing of these files?

23   A   Yes.

24   Q   Those files have various date stamps as well,

25   correct?

1   A   Yes, they do.

2   Q   Is it correct that the date stamp for the first

3   one, two, three, four, five, six files in the listing that

4   you just gave is also March 8, 1995?

5   A   Yes, that is correct.

6   Q   And the date stamp for the next file is March 7,

7   1995?

8   A   That's correct.

9   Q   And for the next two files is March 3, 1995?

10   A   Yes.

11   Q   And for the final file in the listing it is

12   February 28, 1995?

13   A   Yes.

14   Q   Does the process of either copying these files

15   from one place to another or the process of using the PKZIP

16   utility to compress the files and then the PKUNZIP utility

17   to extract the files, in the normal course does that alter

18   the date stamp on the original files in any way?

19   A   No.

20   Q   Does it alter the contents of the files in any

21   way?

22   A   No.

23   Q   Does it alter the size of the files or the size as

24   reported in the directory listing in any way?

25   A   No.

1 Q   So absent some intentional action to manipulate

2 these files then, is it your opinion that these would be the

3 files that were originally compressed into DAD.ZIP on

4 March 8, 1995?

5 A   Yes.

6 Q   Now, you have testified earlier about what a DBF

7 file is. You recognize these as what are apparently DBF

8 data files, correct?

9 A   Yes.

10 Q   Have you had an opportunity this morning to

11 actually review the contents of one or more of these files?

12 A   The internal contents of each file? No.

13 Q   Of any of them?

14 A   No.

15 Q   Okay. How would you go about reviewing the

16 internal contents?

17   Well, first of all, my understanding is this

18 morning that there are special database engine packages, in

19 which FoxPro is one, and then there are custom applications

20 which are built to then allow the generation and

21 manipulations of these DBF files, but that is done largely

22 in the background insulated from the user.

23   What we are now looking at, as I understand it,

24 are just the raw DBF files themselves, correct?

25 A   That is correct.

1   Q   We do not have the software package which

2 generated these files?

3   A   I do not, no.

4   Q   And you do not have there any custom application

5 from which these files were generated?

6   A   No.

7   Q   How would you go about reviewing the contents of

8 those files if you wanted to?

9   A   I have to get a hold of the program itself before

10 I'd even attempt to do this. That's assuming that it is in

11 fact written in FoxPro.

12   Going based off the information that you've given

13 me, I'd have to say I need the program to review the

14 contents.

15   Q   Now, you testified earlier about records and

16 fields.

17   A   Uh-huh.

18   Q   Is it true that these files are likely to contain

19 a series of records and fields stored in some computer --

20   A   It's a safe --

21   Q   -- readable format?

22   A   It is a safe assumption.

23   Q   There is a binder to your left there that is

24 tabbed, and I would ask you, if you could, to refer to the

25 tab that is marked WTB Exhibit 281, No. 281.

1   A   Okay. I'm there.

2   Q   Have you located that document?

3   A   Yes, I am. I'm looking at the first page, page 1

4   of --

5   Q   Okay. Do you see a little note at the top that

6   appears to be handwritten, CUST01.DBF?

7   A   Yes.

8   Q   Now, first of all, just skimming this document

9   briefly, the first two pages, are there any general

10 observations you can make about what it appears to be?

11   A   It looks like it's a customer list of some sort.

12 It's an output of some sort of program.

13   Q   If this were representational, a graphical

14 representation of the contents of the DBF file, making that

15 assumption for purposes of this question, would it be true

16 that each line going across would represent some portion of

17 a record --

18   A   Yes.

19   Q   -- and that each column going down would represent

20 fields in that record?

21   A   Yes.

22   Q   Now, could you just read to me what are designated

23 there as what we could call for purposes of this question

24 the fields going across the top of that page?

25   A   The field would be "Cust", which I assume would be

1   customer name, "Address", which is referred to as A-D-D 1.

2   MR. KNOWLES-KELLETT: There is one before that.

3   The first field is Cust.

4   MR. KELLER: He said that.

5   MR. KNOWLES-KELLETT: But there is a number.

6   MR. KELLER: I am asking just for the field

7   designations right now.

8   MR. KNOWLES-KELLETT: Okay. The first one, to be

9   clear, was Cust, and then the next one was Name.

10   THE WITNESS: Going from left to right, yes.

11   MR. KNOWLES-KELLETT: Okay.

12   THE WITNESS: Cust.

13   MR. KNOWLES-KELLETT: It just sounded to me like

14   you --

15   THE WITNESS: I did. I started at Name. Going

16   from left to right, Cust Name, A-D-D 1, A-D-D 2, A-D-D 3,

17   Zip.

18   BY MR. KELLER:

19   Q   Okay. Now would you flip to page 14 of the

20   exhibit?

21   A   Okay.

22   Q   Does that seem to be a continuation of the same

23   types of fields, but for different records?

24   A   Page 14 looks like the end of that particular

25   Cust, yes.

1   Q   Okay. Now look over at page 15.

2   A   Uh-huh.

3   Q   Do you see again the first field listing being

4   Cust?

5   A   Yes, I do.

6   Q   Now, do you see a continuation there of what would

7   appear to be different fields?

8   A   Yes.

9   Q   Read what those fields are.

10   A   They are -- going from left to right, there is

11   Cust and then Contact, Tele 1, Tele 2, Start Date, End Date,

12   YTD Bill, YTD Receipt, LST BL Amount, LST BL Date, LST RC

13   Amount.

14   Q   Okay. If you will, I would ask you to refer to

15   page 28 of the exhibit.

16   A   Yes. It looks to be the end of --

17   Q   The end of that thing, but with the same field

18   headings that you just read?

19   A   Yes.

20   Q   Now turn to page 29.

21   A   I'm there.

22   Q   Do you see there again a field beginning with

23   Cust, but then picking up with different field names?

24   A   Yes.

25   Q   Read those across for me, please.

1   A   From left to right, after Cust, would be LST RCD

2   AT LIC 1, Renew 1 DAT, LIC 2, Renew 2 DAT, LIC --

3   Q   You can stop there. That is sufficient for my

4   purposes.

5   Now, is it possible that even though I have had

6   you look at three different segments of the files, what they

7   still represent are -- let me state it this way. Go back to

8   page 1.

9   A   I'm there.

10   Q   Do you see the first record listed under the field

11   there under Cust is 102, Cust No. 102?

12   A   Yes.

13   Q   Going across, do you see there is various

14   information?

15   A   Yes.

16   Q   Now turning to page 15 --

17   A   Yes. I'm there.

18   Q   You are, but I am not.

19   A   Okay.

20   Q   Do you see again the first customer picked up now

21   with a different set of fields, but that is also Cust 102?

22   A   Yes, I do see that.

23   Q   Now turning up to what I believe turned out to be

24   page 20, but let me make sure, do you see now again Cust 102

25   picking up again with a different set of fields?

1   A   Yes, I do.

2   Q   All right. Again working from the assumption that

3   this printout is a representation of the contents of the DBF

4   file, is it possible that the information on all three of

5   those pages, the information for Cust 102 on page 15, the

6   information for Cust 102 on page 1, and the information for

7   Cust 102 on page 29, are all part of a single record?

8   A   It appears that way.

9   Q   But various different fields and that it was split

10 over different pages simply because the pages were not long

11 enough to contain all the records?

12   A   That's correct.

13   Q   And that in fact one of the advantages of database

14 applications is you can have numerous different fields of

15 types of information, dates, address, amounts?

16   A   Yes.

17   Q   Now, in a database application, if I am

18 understanding you correctly, the custom application that is

19 built, and I believe the words you used were there are

20 various parts to the various DBF files, and it manipulates

21 or writes data.

22   Back to the hypothetical I gave you. If I had you

23 develop the application for my client and billing software,

24 when my staff then brought up the screen and entered certain

25 data, say they entered a new customer name. Say I got a new

1   client, and they entered the new client. What would happen

2   to the underlying DBF file at that point?

3   A   It would be dynamically updated.

4   Q   And in the instance of entering a new client,

5   would that then be adding a new record?

6   A   Yes, and the file size would typically increase.

7   Q   Okay. Now, if they went to an existing client,

8   and I am going to feel lucky today, and I entered the fact

9   that a bill had been paid and I received some money and they

10   updated that, is it true that that would have the result of

11   changing a field in an existing record?

12   A   Yes.

13   Q   When these changes are made in the DBF file, does

14   that affect the date stamp of the file at the DOS level?

15   A   Usually.

16   Q   If there are fields within the data file that are

17   date related either because of a manual entry which records

18   a date, I enter a date, or automatically -- well, first of

19   all, is it true that there are also typically fields in a

20   database which might automatically enter a date into a

21   certain field?

22   A   Yes, depending upon how it was written.

23   Q   So where fields are changed in the database and

24   where they are date related -- let me ask the question in an

25   easier fashion. Please turn to page 15 of Exhibit 281.

1   A   I'm there.

2   Q   Now, reading across the top of the sheet, the next

3   to the last field listed on that page is something called

4   LST_BL_DAT, and you interpreted that as probably meaning

5   something like last bill date, correct?

6   A   That would make logical sense, yes.

7   Q   It is true that what is listed in the records

8   under that field appear to be dates, correct?

9   A   Yes.

10   Q   Okay. Looking at the far left, if I have you scan

11 down the Cust field to find Item 172, Cust No. 172 --

12   A   I have it.

13   Q   Pat Martin.

14   A   Yes.

15   Q   If you scan across to the last bill date or what

16 we are assuming is the last bill date, what is the date

17 entered there?

18   A   I have 3-1-95.

19   Q   Okay. Similarly scanning down the Cust field to

20 Cust No. 199, Gary Solazzo --

21   A   Yes.

22   Q   Scanning over to the last bill date there, what is

23 the date?

24   A   3-8-95.

25   Q   Just to do one or two other examples, if I could

1   ask you to turn to -- actually, we do not need to turn to

2   any others.

3   MR. KNOWLES-KELLETT: Can we clarify for the

4   record that the names you were saying were not actually

5   customer names, but contact names?

6   MR. KELLER: Fine. I was using those names only

7   for reference purposes to read across.

8   MR. KNOWLES-KELLETT: I think they were referred

9   to as customer number. It is the contact for Customer 199.

10   MR. KELLER: They were under the Customer Contact

11   field. You are correct. And I was doing it solely for

12   direction purposes.

13   BY MR. KELLER:

14   Q   Again, Mr. Johnson, assuming that this were

15   representation of the contents of a file called

16   CUST01.DBF --

17   A   Yes.

18   Q   -- and further assuming that those date fields we

19   just read reflect the fact that in the database application

20   those fields were either manually or automatically by the

21   application updated on the dates that you just stated,

22   March 1, 1995, and March 8, 1995, would you have an opinion

23   then as to whether the file itself, CUST01.DBF, would have

24   been copied before, on or after March 8, 1995, the raw file?

25   A   The last -- if I were to scan this document and

1   see that 3-8-95 is the most current date in here, then that

2   master DBF file, assuming that it is called CUST01.DBF, that

3   would be the most current revised date.

4   Q   All right. So, stated another way, assuming that

5   3-8-95 is correctly reflecting the last bill date, --

6   A   Okay.

7   Q   -- assuming that means last bill date and,

8   therefore, reflects an update of this database to show that

9   the last bill for that customer was sent out on March 8,

10   1995, or at least was reflected on this database on March 8,

11   1995, and I am getting that information from a file called

12   CUST01.DBF, then is it not true that that means that I must

13   have gotten access to that file, I must have copied that

14   file, CUST01.DBF, at the earliest on March 1, 1995? Excuse

15   me. March 8, 1995.

16   A   Yes.

17   Q   Because if I had copied it or received it earlier

18   than that date, this information would not be reflected in

19   that copy of the file, would it?

20   A   No.

21   JUDGE CHACHKIN: The answer is no?

22   THE WITNESS: No. Yes, sir.

23   MR. KELLER: Your Honor, I have no further

24   questions.

25   JUDGE CHACHKIN: Any cross?